

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Sections 8 and 10 as follows:

6 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

7 Sec. 8. Grounds for denial and revocation. The Department
8 of State Police has authority to deny an application for or to
9 revoke and seize a Firearm Owner's Identification Card
10 previously issued under this Act only if the Department finds
11 that the applicant or the person to whom such card was issued
12 is or was at the time of issuance:

13 (a) A person under 21 years of age who has been
14 convicted of a misdemeanor other than a traffic offense or
15 adjudged delinquent;

16 (b) This subsection (b) applies through the 180th day
17 following the effective date of this amendatory Act of the
18 101st General Assembly. A person under 21 years of age who
19 does not have the written consent of his parent or
20 guardian to acquire and possess firearms and firearm
21 ammunition, or whose parent or guardian has revoked such
22 written consent, or where such parent or guardian does not
23 qualify to have a Firearm Owner's Identification Card;

1 (b-5) This subsection (b-5) applies on and after the
2 181st day following the effective date of this amendatory
3 Act of the 101st General Assembly. A person under 21 years
4 of age who is not an active duty member of the United
5 States Armed Forces and does not have the written consent
6 of his or her parent or guardian to acquire and possess
7 firearms and firearm ammunition, or whose parent or
8 guardian has revoked such written consent, or where such
9 parent or guardian does not qualify to have a Firearm
10 Owner's Identification Card;

11 (c) A person convicted of a felony under the laws of
12 this or any other jurisdiction;

13 (d) A person addicted to narcotics;

14 (e) A person who has been a patient of a mental health
15 facility within the past 5 years or a person who has been a
16 patient in a mental health facility more than 5 years ago
17 who has not received the certification required under
18 subsection (u) of this Section. An active law enforcement
19 officer employed by a unit of government or a Department
20 of Corrections employee authorized to possess firearms who
21 is denied, revoked, or has his or her Firearm Owner's
22 Identification Card seized under this subsection (e) may
23 obtain relief as described in subsection (c-5) of Section
24 10 of this Act if the officer or employee did not act in a
25 manner threatening to the officer or employee, another
26 person, or the public as determined by the treating

1 clinical psychologist or physician, and the officer or
2 employee seeks mental health treatment;

3 (f) A person whose mental condition is of such a
4 nature that it poses a clear and present danger to the
5 applicant, any other person or persons or the community;

6 (g) A person who has an intellectual disability;

7 (h) A person who intentionally makes a false statement
8 in the Firearm Owner's Identification Card application;

9 (i) An alien who is unlawfully present in the United
10 States under the laws of the United States;

11 (i-5) An alien who has been admitted to the United
12 States under a non-immigrant visa (as that term is defined
13 in Section 101(a)(26) of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a)(26))), except that this subsection
15 (i-5) does not apply to any alien who has been lawfully
16 admitted to the United States under a non-immigrant visa
17 if that alien is:

18 (1) admitted to the United States for lawful
19 hunting or sporting purposes;

20 (2) an official representative of a foreign
21 government who is:

22 (A) accredited to the United States Government
23 or the Government's mission to an international
24 organization having its headquarters in the United
25 States; or

26 (B) en route to or from another country to

1 which that alien is accredited;

2 (3) an official of a foreign government or
3 distinguished foreign visitor who has been so
4 designated by the Department of State;

5 (4) a foreign law enforcement officer of a
6 friendly foreign government entering the United States
7 on official business; or

8 (5) one who has received a waiver from the
9 Attorney General of the United States pursuant to 18
10 U.S.C. 922(y) (3);

11 (j) (Blank);

12 (k) A person who has been convicted within the past 5
13 years of battery, assault, aggravated assault, violation
14 of an order of protection, or a substantially similar
15 offense in another jurisdiction, in which a firearm was
16 used or possessed;

17 (l) A person who has been convicted of domestic
18 battery, aggravated domestic battery, or a substantially
19 similar offense in another jurisdiction committed before,
20 on or after January 1, 2012 (the effective date of Public
21 Act 97-158). If the applicant or person who has been
22 previously issued a Firearm Owner's Identification Card
23 under this Act knowingly and intelligently waives the
24 right to have an offense described in this paragraph (l)
25 tried by a jury, and by guilty plea or otherwise, results
26 in a conviction for an offense in which a domestic

1 relationship is not a required element of the offense but
2 in which a determination of the applicability of 18 U.S.C.
3 922(g)(9) is made under Section 112A-11.1 of the Code of
4 Criminal Procedure of 1963, an entry by the court of a
5 judgment of conviction for that offense shall be grounds
6 for denying an application for and for revoking and
7 seizing a Firearm Owner's Identification Card previously
8 issued to the person under this Act;

9 (m) (Blank);

10 (n) A person who is prohibited from acquiring or
11 possessing firearms or firearm ammunition by any Illinois
12 State statute or by federal law;

13 (o) A minor subject to a petition filed under Section
14 5-520 of the Juvenile Court Act of 1987 alleging that the
15 minor is a delinquent minor for the commission of an
16 offense that if committed by an adult would be a felony;

17 (p) An adult who had been adjudicated a delinquent
18 minor under the Juvenile Court Act of 1987 for the
19 commission of an offense that if committed by an adult
20 would be a felony;

21 (q) A person who is not a resident of the State of
22 Illinois, except as provided in subsection (a-10) of
23 Section 4;

24 (r) A person who has been adjudicated as a person with
25 a mental disability;

26 (s) A person who has been found to have a

1 developmental disability;

2 (t) A person involuntarily admitted into a mental
3 health facility; or

4 (u) A person who has had his or her Firearm Owner's
5 Identification Card revoked or denied under subsection (e)
6 of this Section or item (iv) of paragraph (2) of
7 subsection (a) of Section 4 of this Act because he or she
8 was a patient in a mental health facility as provided in
9 subsection (e) of this Section, shall not be permitted to
10 obtain a Firearm Owner's Identification Card, after the
11 5-year period has lapsed, unless he or she has received a
12 mental health evaluation by a physician, clinical
13 psychologist, or qualified examiner as those terms are
14 defined in the Mental Health and Developmental
15 Disabilities Code, and has received a certification that
16 he or she is not a clear and present danger to himself,
17 herself, or others. The physician, clinical psychologist,
18 or qualified examiner making the certification and his or
19 her employer shall not be held criminally, civilly, or
20 professionally liable for making or not making the
21 certification required under this subsection, except for
22 willful or wanton misconduct. This subsection does not
23 apply to a person whose firearm possession rights have
24 been restored through administrative or judicial action
25 under Section 10 or 11 of this Act.

26 Upon revocation of a person's Firearm Owner's

1 Identification Card, the Department of State Police shall
2 provide notice to the person and the person shall comply with
3 Section 9.5 of this Act.

4 (Source: P.A. 101-80, eff. 7-12-19.)

5 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

6 Sec. 10. Appeal to director; hearing; relief from firearm
7 prohibitions.

8 (a) Whenever an application for a Firearm Owner's
9 Identification Card is denied, whenever the Department fails
10 to act on an application within 30 days of its receipt, or
11 whenever such a Card is revoked or seized as provided for in
12 Section 8 of this Act, the aggrieved party may appeal to the
13 Director of State Police for a hearing upon such denial,
14 revocation or seizure, unless the denial, revocation, or
15 seizure was based upon a forcible felony, stalking, aggravated
16 stalking, domestic battery, any violation of the Illinois
17 Controlled Substances Act, the Methamphetamine Control and
18 Community Protection Act, or the Cannabis Control Act that is
19 classified as a Class 2 or greater felony, any felony
20 violation of Article 24 of the Criminal Code of 1961 or the
21 Criminal Code of 2012, or any adjudication as a delinquent
22 minor for the commission of an offense that if committed by an
23 adult would be a felony, in which case the aggrieved party may
24 petition the circuit court in writing in the county of his or
25 her residence for a hearing upon such denial, revocation, or

1 seizure.

2 (b) At least 30 days before any hearing in the circuit
3 court, the petitioner shall serve the relevant State's
4 Attorney with a copy of the petition. The State's Attorney may
5 object to the petition and present evidence. At the hearing
6 the court shall determine whether substantial justice has been
7 done. Should the court determine that substantial justice has
8 not been done, the court shall issue an order directing the
9 Department of State Police to issue a Card. However, the court
10 shall not issue the order if the petitioner is otherwise
11 prohibited from obtaining, possessing, or using a firearm
12 under federal law.

13 (c) Any person prohibited from possessing a firearm under
14 Sections 24-1.1 or 24-3.1 of the Criminal Code of 2012 or
15 acquiring a Firearm Owner's Identification Card under Section
16 8 of this Act may apply to the Director of State Police or
17 petition the circuit court in the county where the petitioner
18 resides, whichever is applicable in accordance with subsection
19 (a) of this Section, requesting relief from such prohibition
20 and the Director or court may grant such relief if it is
21 established by the applicant to the court's or Director's
22 satisfaction that:

23 (0.05) when in the circuit court, the State's Attorney
24 has been served with a written copy of the petition at
25 least 30 days before any such hearing in the circuit court
26 and at the hearing the State's Attorney was afforded an

1 opportunity to present evidence and object to the
2 petition;

3 (1) the applicant has not been convicted of a forcible
4 felony under the laws of this State or any other
5 jurisdiction within 20 years of the applicant's
6 application for a Firearm Owner's Identification Card, or
7 at least 20 years have passed since the end of any period
8 of imprisonment imposed in relation to that conviction;

9 (2) the circumstances regarding a criminal conviction,
10 where applicable, the applicant's criminal history and his
11 reputation are such that the applicant will not be likely
12 to act in a manner dangerous to public safety;

13 (3) granting relief would not be contrary to the
14 public interest; and

15 (4) granting relief would not be contrary to federal
16 law.

17 (c-5) (1) An active law enforcement officer employed by a
18 unit of government or a Department of Corrections employee
19 authorized to possess firearms 7 who is denied, revoked, or
20 has his or her Firearm Owner's Identification Card seized
21 under subsection (e) of Section 8 of this Act may apply to the
22 Director of State Police requesting relief if the officer or
23 employee did not act in a manner threatening to the officer or
24 employee, another person, or the public as determined by the
25 treating clinical psychologist or physician, and as a result
26 of his or her work is referred by the employer for or

1 voluntarily seeks mental health evaluation or treatment by a
2 licensed clinical psychologist, psychiatrist, or qualified
3 examiner, and:

4 (A) the officer or employee has not received treatment
5 involuntarily at a mental health facility, regardless of
6 the length of admission; or has not been voluntarily
7 admitted to a mental health facility for more than 30 days
8 and not for more than one incident within the past 5 years;
9 and

10 (B) the officer or employee has not left the mental
11 institution against medical advice.

12 (2) The Director of State Police shall grant expedited
13 relief to active law enforcement officers and employees
14 described in paragraph (1) of this subsection (c-5) upon a
15 determination by the Director that the officer's or employee's
16 possession of a firearm does not present a threat to
17 themselves, others, or public safety. The Director shall act
18 on the request for relief within 30 business days of receipt
19 of:

20 (A) a notarized statement from the officer or employee
21 in the form prescribed by the Director detailing the
22 circumstances that led to the hospitalization;

23 (B) all documentation regarding the admission,
24 evaluation, treatment and discharge from the treating
25 licensed clinical psychologist or psychiatrist of the
26 officer;

1 (C) a psychological fitness for duty evaluation of the
2 person completed after the time of discharge; and

3 (D) written confirmation in the form prescribed by the
4 Director from the treating licensed clinical psychologist
5 or psychiatrist that the provisions set forth in paragraph
6 (1) of this subsection (c-5) have been met, the person
7 successfully completed treatment, and their professional
8 opinion regarding the person's ability to possess
9 firearms.

10 (3) Officers and employees eligible for the expedited
11 relief in paragraph (2) of this subsection (c-5) have the
12 burden of proof on eligibility and must provide all
13 information required. The Director may not consider granting
14 expedited relief until the proof and information is received.

15 (4) "Clinical psychologist", "psychiatrist", and
16 "qualified examiner" shall have the same meaning as provided
17 in Chapter I of the Mental Health and Developmental
18 Disabilities Code.

19 (c-10) (1) An applicant, who is denied, revoked, or has
20 his or her Firearm Owner's Identification Card seized under
21 subsection (e) of Section 8 of this Act based upon a
22 determination of a developmental disability or an intellectual
23 disability may apply to the Director of State Police
24 requesting relief.

25 (2) The Director shall act on the request for relief
26 within 60 business days of receipt of written certification,

1 in the form prescribed by the Director, from a physician or
2 clinical psychologist, or qualified examiner, that the
3 aggrieved party's developmental disability or intellectual
4 disability condition is determined by a physician, clinical
5 psychologist, or qualified to be mild. If a fact-finding
6 conference is scheduled to obtain additional information
7 concerning the circumstances of the denial or revocation, the
8 60 business days the Director has to act shall be tolled until
9 the completion of the fact-finding conference.

10 (3) The Director may grant relief if the aggrieved party's
11 developmental disability or intellectual disability is mild as
12 determined by a physician, clinical psychologist, or qualified
13 examiner and it is established by the applicant to the
14 Director's satisfaction that:

15 (A) granting relief would not be contrary to the
16 public interest; and

17 (B) granting relief would not be contrary to federal
18 law.

19 (4) The Director may not grant relief if the condition is
20 determined by a physician, clinical psychologist, or qualified
21 examiner to be moderate, severe, or profound.

22 (5) The changes made to this Section by this amendatory
23 Act of the 99th General Assembly apply to requests for relief
24 pending on or before the effective date of this amendatory
25 Act, except that the 60-day period for the Director to act on
26 requests pending before the effective date shall begin on the

1 effective date of this amendatory Act.

2 (d) When a minor is adjudicated delinquent for an offense
3 which if committed by an adult would be a felony, the court
4 shall notify the Department of State Police.

5 (e) The court shall review the denial of an application or
6 the revocation of a Firearm Owner's Identification Card of a
7 person who has been adjudicated delinquent for an offense that
8 if committed by an adult would be a felony if an application
9 for relief has been filed at least 10 years after the
10 adjudication of delinquency and the court determines that the
11 applicant should be granted relief from disability to obtain a
12 Firearm Owner's Identification Card. If the court grants
13 relief, the court shall notify the Department of State Police
14 that the disability has been removed and that the applicant is
15 eligible to obtain a Firearm Owner's Identification Card.

16 (f) Any person who is subject to the disabilities of 18
17 U.S.C. 922(d)(4) and 922(g)(4) of the federal Gun Control Act
18 of 1968 because of an adjudication or commitment that occurred
19 under the laws of this State or who was determined to be
20 subject to the provisions of subsections (e), (f), or (g) of
21 Section 8 of this Act may apply to the Department of State
22 Police requesting relief from that prohibition. The Director
23 shall grant the relief if it is established by a preponderance
24 of the evidence that the person will not be likely to act in a
25 manner dangerous to public safety and that granting relief
26 would not be contrary to the public interest. In making this

1 determination, the Director shall receive evidence concerning
2 (i) the circumstances regarding the firearms disabilities from
3 which relief is sought; (ii) the petitioner's mental health
4 and criminal history records, if any; (iii) the petitioner's
5 reputation, developed at a minimum through character witness
6 statements, testimony, or other character evidence; and (iv)
7 changes in the petitioner's condition or circumstances since
8 the disqualifying events relevant to the relief sought. If
9 relief is granted under this subsection or by order of a court
10 under this Section, the Director shall as soon as practicable
11 but in no case later than 15 business days, update, correct,
12 modify, or remove the person's record in any database that the
13 Department of State Police makes available to the National
14 Instant Criminal Background Check System and notify the United
15 States Attorney General that the basis for the record being
16 made available no longer applies. The Department of State
17 Police shall adopt rules for the administration of this
18 Section.

19 (Source: P.A. 98-63, eff. 7-9-13; 99-29, eff. 7-10-15; 99-78,
20 eff. 7-20-15.)

21 Section 10. The Unified Code of Corrections is amended by
22 adding Section 3-2-13 as follows:

23 (730 ILCS 5/3-2-13 new)

24 Sec. 3-2-13. Possession of a Firearm Owner's

1 Identification Card. The Department of Corrections shall not
2 make possession of a Firearm Owner's Identification Card a
3 condition of continued employment as a Department employee
4 authorized to possess firearms if the employee's Firearm
5 Owner's Identification Card is revoked or seized because the
6 employee has been a patient of a mental health facility and the
7 employee has not been determined to pose a clear and present
8 danger to himself, herself, or others as determined by a
9 physician, clinical psychologist, or qualified examiner.
10 Nothing in this Section shall otherwise impair the
11 Department's ability to determine an employee's fitness for
12 duty. A collective bargaining agreement already in effect on
13 this issue on the effective date of this amendatory Act of the
14 102nd General Assembly cannot be modified, but on or after the
15 effective date of this amendatory Act of the 102nd General
16 Assembly, the Department cannot require a Firearm Owner's
17 Identification Card as a condition of continued employment in
18 a collective bargaining agreement. The Department shall
19 document if and why an employee has been determined to pose a
20 clear and present danger. In this Section, "mental health
21 facility" and "qualified examiner" have the meanings provided
22 in the Mental Health and Developmental Disabilities Code.